

REMARKS / ARGUMENTS

Claims 1-30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,923,663, issued to Bontemps et al. (hereinafter, Bontemps). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Bontemps Does Not Anticipate Claims 1, 11 and 21

The Applicant now turns to the rejection of claims 1, 11 and 21 under 35 U.S.C. 102(b) as being anticipated by Bontemps. With regard to the anticipation rejections under 102(b), MPEP §2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See id. (internal citation omitted).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102 (b)

With regard to the rejection of independent claim 1 under 35 U.S.C. §

102(b), the Applicant maintains that Bontemps does not disclose or suggest at least the limitation of “determining any one usable media pair from all existing media pairs”, as recited by the Applicant in independent claim 1. The Final Office Action addresses the Applicant’s argument made in his response on the above claim limitation in the Office Action of February 26, 2007.

The Applicant notes that the Final Office Action does not address the arguments made by the Applicant in support of the remaining claim limitations of independent claim 1, as demanded by MPEP §2131, cited above. Namely, the Applicant’s argument on “selecting any one channel from all existing channels” and on “assigning said selected any one channel to said any one media pair” are not addressed in the Final Office Action and are restated in the following paragraphs.

Bontemps does not teach or suggest “selecting any one channel from all existing channels”. The Office Action refers for support to element 202 and ports 1-N in FIG. 2 in Bontemps, as well as col. 3, lines 58-61.

Since the data streams shown in FIG. 2 in Bontemps, from Port 1 through N passing each through a PHY device 218, are never aggregated anywhere in FIG. 2 (but instead individually are coupled “to MII or MAC”), a process of “selecting any one channel from all existing channels” cannot possibly take place in any block depicted in FIG. 2. Correspondingly, no “one channel” resulting from the selection process is depicted in FIG. 2.

In addition, col.3, lines 58-61 cited for support in the office action does not suggest or teach “selecting any one channel from all existing channels”.

Hence, the Applicant respectfully submits that the rejection of claim 1 based on 35 U.S.C. §102(b) be withdrawn and claim 1 made allowable.

Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1, 11 and 21.

B. Rejection of Dependent Claims 2-10, 12-20, 22-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Bontemps has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20 and 22-30 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those

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set forth above to support the allowability of claims 1-30.

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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/Ognyan Beremski/

Ognyan Beremski, Esq.
Registration No. 51,458
Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 775-8000

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